

Sen. John J. Walsh, Chair  
Sen. Stephanie L. Hansen  
Sen. Brian G. Pettyjohn  
Sen. Bryant L. Richardson  
Sen. David P. Sokola



Rep. Stephanie T. Bolden, Vice-Chair  
Rep. Andria L. Bennett  
Rep. Gerald L. Brady  
Rep. Timothy D. Dukes  
Rep. Jeffrey N. Spiegelman

## STATE OF DELAWARE

### JOINT LEGISLATIVE OVERSIGHT AND SUNSET COMMITTEE

#### **Delaware State Board of Education Recommendation Meeting 3.21.2017**

Chair Walsh called the meeting to order at 12:13pm. Members present included Vice Chair Bolden; Senators Hansen, Pettyjohn, Richardson, and Sokola; and Representatives Bennett, Dukes, and Spiegelman. Julie Fedele, JLOSC Analyst, and Holly Vaughn Wagner, Legislative Attorney, were also present. Chair Walsh called for introductions and stated the purpose of the meeting.

Senator Sokola motioned to approve the February 22, 2017 minutes, and was seconded by Representative Spiegelman. The motion carried 9 (Senators Walsh, Hansen, Pettyjohn, Richardson, and Sokola; Representatives Bolden, Bennett, Dukes, and Spiegelman)-0, 1 absent (Representative Brady).

Chair Walsh invited Dave Mangler, Director of the Delaware Division of Professional Regulation, to present the Board of Medical Licensure and Discipline's draft legislation. Mr. Mangler introduced Shauna Slaughter, the Deputy Director of the Division of Professional Regulation, who summarized the proposed legislation. Senator Sokola asked why the complaint procedure section of the bill was removed without replacement. Ms. Slaughter clarified that the procedure was covered by regulations. Representative Bolden motioned to release bill, which was seconded by Senator Pettyjohn.

Chair Walsh welcomed Board members and invited them to present on behalf of the Board. Board members present included by Vice President Nina Lou Bunting, Terry Whittaker, Pat Heffernan, Barbara Rutt, and Greg Coverdale. Donna Johnson, Executive Director of the Board, and Dani Moore, Administrative Assistant, were also present. Ms. Bunting indicated that the Board held an emergency meeting on Friday, March 17, 2017, to discuss JLOSC's recommendations.

Chair Walsh read Recommendation One, and asked committee members for questions and comments. Representative Spiegelman explained that he was disappointed and disturbed by the lack of transparency exhibited by the Board. He noted that he heard from Kent County superintendents to eliminate the Board entirely. Representative Spiegelman clarified that he was in favor of voting to sunset the Board, as there appears to be a general sense of mistrust by the public in relation to the Board's activities, though he would be interested in exploring what that vote would entail. Senator Pettyjohn explained that it seems the public does not understand the difference between the Board and the Delaware Department of Education, and that he is in favor

of looking to improve the structure and function of the Board. Representative Bolden suggested that the committee may be premature in discussing elimination of the Board prior to discussing the other recommendations.

Chair Walsh read Recommendation Two, and asked the Board to provide its opinion. The Board indicated that reworking of the Board's governing statute would benefit both the Board and its stakeholders, and was therefore a beneficial exercise. Representative Bennett identified that some accomplishments and involvements undertaken by the Board are not codified. Representative Spiegelman suggested that confusion arises when the Board and the Delaware Department of Education do not communicate consistent interpretations of regulation, which has proven to be difficult for school district superintendents. The Board asked for provision of examples for such a scenario. Senator Sokola expressed support for this recommendation. Senator Hansen asked what the Board expected to obtain from reworking their governing statute, and asked for clarification on whether the Board intended to clarify their current role, or to codify unspecified duties currently being undertaken by the Board. The Board replied that they did not intend to assume any new duties. Representative Spiegelman suggested that the committee be kept informed of potential changes to the code prior to release from the sunset review process, and asked for clarification in regard to the Board's identification as a "citizens' voice." The Board explained that they are removed from educational conflicts of interest, and are confirmed by the Delaware State Senate. Representative Dukes asked how long the Board would need to prepare clarifications on potential changes; the Board replied that it would not take an extended period of time. Senator Sokola motioned to adopt Recommendation Two with a reporting requirement suggested by Representative Spiegelman. The motion carried 9 (Senators Walsh, Hansen, Pettyjohn, Richardson, and Sokola; Representatives Bolden, Bennett, Dukes, and Spiegelman)-0, 1 absent (Representative Brady).

Chair Walsh read Recommendation Three and asked the committee for questions and comments. Senator Sokola expressed support for the current model of appointment, and suggested that the current model encourages more accountability of the Board to the Governor. Representative Spiegelman suggested that electing a Board president would encourage a healthy degree of independence and adhere more closely to the Board's purpose. The Board clarified that not all members of the Board are appropriately prepared to assume the responsibilities of president. Senator Hansen asked for clarification that all positions on the Board would still require Senate confirmation; it was clarified that they would. Senator Bolden asked about the degree of demand required of the vice president of the Board, Ms. Bunting replied that the position requires a significant time commitment. Senator Walsh noted that the question of how often the president would be voted upon would need to be determined if this recommendation passes. Representative Spiegelman motioned to adopt Recommendation Three, and was seconded by Representative Dukes. The motion failed to carry 4 (Senators Pettyjohn and Richardson; Representatives Spiegelman and Dukes)- 6 (Senators Walsh, Hansen, and Sokola; Representatives Bennett, Bolden and Brady).

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Chair Walsh read Recommendation Four and asked the committee for questions or comments. Senator Pettyjohn asked if the language in the recommendation was standard for similar boards; Ms. Fedele clarified that it was. Mr. Coverdale expressed support for the recommendation, and clarified that the Board planned to meet with its legal representation to discuss professional guidelines. Senator Pettyjohn motioned to adopt Recommendation Four, and was seconded by Senator Sokola. The motion carried 10 (Senators Walsh, Hansen, Pettyjohn, Richardson, and Sokola; Representatives Bolden, Bennett, Brady, Dukes, and Spiegelman)-0.

Chair Walsh read Recommendation Five and asked for the Board to provide any opinions. The Board indicated that they had begun to work with attorneys to reform the Executive Director's job description. Senator Pettyjohn asked if job descriptions for similar bodies are usually codified, Ms. Fedele clarified that they are not. Representative Spiegelman motioned to adopt Option One of Recommendation Five, and was seconded by Senator Pettyjohn. The motion carried 10 (Senators Walsh, Hansen, Pettyjohn, Richardson, and Sokola; Representatives Bolden, Bennett, Brady, Dukes, and Spiegelman)-0.

Chair Walsh read Recommendation Six and asked the Board to provide any opinions. The Board indicated that the cost feasibility of the recommendation was a concern. Senator Sokola clarified that the language of the recommendation was incorrect in suggesting that the Board could amend the code. The Board explained that it would like to speak to the Secretary of Education to discuss feasibility and implementation strategies for this recommendation. Representative Bolden clarified that the committee does not have to approve specific implementation strategies. Representative Bolden urged the Board to consider the most impacted populations in planning and executing meetings. Representative Bennett reminded the committee that many boards are required to meet in every county. Representative Spiegelman motioned to adopt Recommendation Six as amended, and was seconded by Representative Bennett. The motion carried 10 (Senators Walsh, Hansen, Pettyjohn, Richardson, and Sokola; Representatives Bolden, Bennett, Brady, Dukes, and Spiegelman)-0.

Chair Walsh read Recommendation Seven and asked the committee for questions and comments. Senator Pettyjohn indicated that meetings held after 5:00p.m. would be sufficient, but was concerned about the feasibility of the Board completing its business in two hours. Senator Sokola suggested that the meetings have a maximum duration time, and that otherwise the Board could rearrange the agenda to prevent comment on specific agenda items. The Board agreed that a requirement to limit meetings to two hours would prove problematic. Senator Pettyjohn suggested that meeting times that appear to result in higher attendance may not be including all appropriate parties. Senator Hansen suggested limiting discussion for individual agenda items rather than for meetings. Representative Bolden suggested that prioritizing the agenda could better encourage efficiency and inclusion. Senator Walsh indicated that the Board would not have to formally institute a time limit, but work instead to limit meetings. Senator Pettyjohn motioned to adopt Recommendation Seven as amended, and was seconded by Representative

Spiegelman. The motion carried 10 (Senators Walsh, Hansen, Pettyjohn, Richardson, and Sokola; Representatives Bolden, Bennett, Brady, Dukes, and Spiegelman)-0.

Chair Walsh read Recommendation Eight and asked the committee for questions and comments. Representative suggested that the board take public comment before Board votes rather than after. The Board clarified that public comment could not be included in consideration of votes. Representative Bolden reminded the committee that the committee hosts public comment prior to voting, and that the procedures of the Board could be amended to allow public comment to be admissible to the public record. The Board explained that some voting items are time sensitive, and allowing public comment would lengthen the total process of consideration. Senator Sokola stated that public comment could be collected on items that do not have a specific timeline. Senator Pettyjohn suggested that the Board identified which agenda items can and cannot include public comment. Representative Spiegelman motioned to adopt Recommendation Eight as amended, and was seconded by Senator Sokola. The motion carried 10 (Senators Walsh, Hansen, Pettyjohn, Richardson, and Sokola; Representatives Bolden, Bennett, Brady, Dukes, and Spiegelman)-0.

Chair Walsh read Recommendation Nine and asked the committee for questions or comments. Senator Pettyjohn expressed that this recommendation would prove expensive and problematic. Representative Bolden suggested that the Board explore avenues to advertise. Senator Sokola suggests that anyone with access to public libraries would have access to the appropriate information. Senator Pettyjohn suggested that school districts could include Board contact information in distributed school calendars. Senator Pettyjohn motioned to adopt Recommendation Nine as amended, and was seconded by Representative Spiegelman. The motion carried 10 (Senators Walsh, Hansen, Pettyjohn, Richardson, and Sokola; Representatives Bolden, Bennett, Brady, Dukes, and Spiegelman)-0.

Chair Walsh read Recommendation Ten and asked the Board to provide its opinion. The Board indicated that it supported creating a process to consider support for legislation. Representative Spiegelman motioned to adopt Recommendation Ten, and was seconded by Representative Brady. The motion carried 10 (Senators Walsh, Hansen, Pettyjohn, Richardson, and Sokola; Representatives Bolden, Bennett, Brady, Dukes, and Spiegelman)-0.

Chair Walsh read Recommendation Eleven and asked for questions or comments. Representative Spiegelman motioned to adopt Recommendation Eleven, and the motion was seconded. The motion carried 10 (Senators Walsh, Hansen, Pettyjohn, Richardson, and Sokola; Representatives Bolden, Bennett, Brady, Dukes, and Spiegelman)-0.

Chair Walsh read Recommendation Twelve and asked for questions or comments. Representative Spiegelman suggested that the committee table this recommendation until after reworking of the Board's governing statute and process issues. Representative Spiegelman motioned to table the recommendation, and was seconded by Senator Pettyjohn. The motion

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carried 10 (Senators Walsh, Hansen, Pettyjohn, Richardson, and Sokola; Representatives Bolden, Bennett, Brady, Dukes, and Spiegelman)-0.

Chair Walsh read Recommendation Thirteen and asked for questions or comments.

Representative Spiegelman motioned to table the recommendation, and was seconded by Senator Pettyjohn. The motion carried 10 (Senators Walsh, Hansen, Pettyjohn, Richardson, and Sokola; Representatives Bolden, Bennett, Brady, Dukes, and Spiegelman)-0.

Representative Spiegelman motioned to table Recommendation One, and was seconded by Representative Bennett. The motion carried 10 (Senators Walsh, Hansen, Pettyjohn, Richardson, and Sokola; Representatives Bolden, Bennett, Brady, Dukes, and Spiegelman)-0.

Senator Pettyjohn motioned to adjourn, and was seconded by Representative Spiegelman. The motion carried 10 (Senators Walsh, Hansen, Pettyjohn, Richardson, and Sokola; Representatives Bolden, Bennett, Brady, Dukes, and Spiegelman)-0.

Respectfully prepared by:

Julie Fedele, Research Analyst-Joint Legislative Oversight and Sunset Committee

*Access to the audio recording of this proceeding is available upon request.*